

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**ORIGINAL**

In the Matter of )

Assessment and Collection )  
of Regulatory Fees for )  
Fiscal Year 1996 )

MD Docket No. 96-84

To: The Commission

**RECEIVED**

**APR 29 1996**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.**

DOCKET FILE COPY ORIGINAL

Respectfully submitted,

**AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.**

By: 

Alan R. Shark, President  
1150 18th Street, N.W. Suite 250  
Washington, D.C. 20036

Of Counsel:

Elizabeth R. Sachs, Esq.  
Lukas, McGowan, Nace & Gutierrez  
1111 Nineteenth Street, N.W. - 12th Floor  
Washington, D.C. 20036  
(202) 857-3500

No. of Copies rec'd 0+7  
List ABCDE

April 29, 1996

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Assessment and Collection	)	MD Docket No. 96-84
of Regulatory Fees for	)	
Fiscal Year 1996	)	

To: The Commission

**COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.**

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Comments in the above-entitled proceeding.<sup>1</sup> These Comments seek clarification of certain aspects of the FCC's proposal regarding the assessment and collection of regulatory fees for fiscal year 1996.

**I INTRODUCTION**

AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") service operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz band.

---

<sup>1</sup> Notice of Proposed Rule Making, MD Docket No. 96-84, FCC 96-153 (released April 9, 1996) ("Notice").

The Association's members had been classified as private carriers prior to the 1993 amendments to the Communications Act.<sup>2</sup> Pursuant to the Budget Act, the regulatory distinction between private and common carriage was replaced by a Commercial Mobile Radio Service ("CMRS") versus Private Mobile Radio Service ("PMRS") analysis. Private carrier systems considered to meet the CMRS definition of providing interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public, were reclassified as CMRS licensees. However, the Budget Act also provided a three-year transition period pursuant to which private carrier licensees authorized prior to August 10, 1993 would continue to be regulated as private carriers, not CMRS, until August 10, 1996.<sup>3</sup> Only those qualified private carriers whose initial licenses in a service were issued after the August 10, 1993 deadline would be treated as CMRS prior to expiration of the three-year transition period. AMTA's Comments in this proceeding relate to issues raised by the transition from private carrier to CMRS status.

## II. COMMENTS

### **A. THE FCC SHOULD CLARIFY THAT "GRANDFATHERED" CMRS LICENSEES ARE NOT SUBJECT TO THE CMRS REGULATORY FEE FOR FISCAL YEAR 1996.**

The Notice proposes to replace the current Public Mobile/Cellular Radio regulatory fee category with a CMRS Mobile Service category which would include not only those services, but, among others, qualifying private licensees in the 220-222 MHz Land Mobile and SMR

---

<sup>2</sup> Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI §6002(b), 107 Stat. 312, 392 ("Budget Act").

<sup>3</sup> 47 U.S.C. §332(c)(6).

services. Notice at ¶ 19. It further proposes that licensees in the CMRS Mobile Services be assessed regulatory fees based on per mobile or cellular unit counts as of December 31, 1995. Notice at ¶ 59.

The Budget Act specifies that "grandfathered" private carrier systems will not fall within the CMRS regulatory scheme until expiration of the three-year transition period on August 10, 1996. Thus, grandfathered licensees were not subject to CMRS status on December 31, 1995, the date specified by the Commission for calculating CMRS regulatory fee obligations. AMTA requests that the FCC confirm in its Report and Order in this proceeding that such licensees will be assessed regulatory fees applicable to Exclusive Use Private Wireless Radio Services for fiscal year 1996 since they were not subject to CMRS regulatory status as of the December 31, 1995 calculation date.

**B. GRANDFATHERED LICENSEES SHOULD NOT BE ASSESSED CMRS REGULATORY FEES UNTIL RENEWAL OR REINSTATEMENT OF THEIR LICENSES OR, AT A MINIMUM, SHOULD BE ENTITLED TO A CREDIT FOR A PRORATED PORTION OF THEIR PREPAID FEES.**

The existing regulatory fee structure requires that licensees in services for which the annual regulatory fee is considered "small" by the FCC submit the entire fee due for the full term of their licenses when filing their initial, renewal or reinstatement applications. Such licensees pay the amount due for the current fiscal year multiplied by the number of years in the term of their requested licenses.

All grandfathered CMRS licensees, as well as other Private Wireless Radio Service licensees, have prepaid their regulatory fees pursuant to that requirement. It appears that they will not be subject to the CMRS regulatory fee obligation until those licenses are renewed or reinstated since the Notice states:

In the event that the required fee is adjusted following their payment of the fee, the payor would not be subject to the payment of a new fee until filing an application for renewal or reinstatement of the license. Notice at ¶ 56.

AMTA requests that the FCC confirm in the Report and Order that grandfathered CMRS licensees will not be subject to the payment of a new CMRS regulatory fee until they renew or reinstate their authorizations. Alternatively, the Commission, at a minimum, must specify that any CMRS regulatory payment due prior to that time will be offset by a pro rata portion of the prepaid regulatory fee.

**C. ONLY INTERCONNECTED MOBILE UNITS SHOULD BE CONSIDERED IN CALCULATING THE CMRS REGULATORY FEE OBLIGATION.**

Unlike cellular and paging systems in which all mobile or paging units have access to the Public Switched Telephone Network ("PSTN") and, therefore, are interconnected in accordance with the definition of CMRS, many heretofore private CMRS operations offer only limited interconnection capability. It is common for some subscribers on SMR or commercial 220 MHz systems to operate units with interconnection capability, while others have units which are only capable of communicating with a dispatcher and other vehicles in the fleet. Certain subscribers elect to permit interconnection for vehicles operated by owners or managers, while limiting the rest of the fleet to dispatch-only service.

The Commission has recognized already that certain systems classified as CMRS provide these distinctly different services over a single, integrated facility. In fact, it has acknowledged that, in certain offerings, revenues per subscriber are substantially higher for interconnected, as opposed to non-interconnected, service.<sup>4</sup> To the extent that units on a particular system do not

---

<sup>4</sup> See, Notice of Proposed Rule Making, GN Docket No. 94-33, 59 FR 25432 (released May 4, 1994) at N. 83.

have interconnect capability, the service they receive cannot be classified as CMRS and they should not be included in the calculation of CMRS regulatory fee obligations. Thus, the Association asks the FCC to clarify that only interconnected units need be considered in determining the applicable CMRS regulatory fee.

### **III CONCLUSION**

AMTA recommends that the FCC proceed expeditiously to finalize this proceeding, consistent with the clarifications and recommendations detailed above.

## **CERTIFICATE OF SERVICE**

I, Linda J. Evans, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify that I have, on this 29th day of April, 1996, directed to be hand carried, a copy of the foregoing Comments to the following:

Chairman Reed E. Hundt  
Federal Communications Commission  
1919 M Street, NW, Room 814  
Washington, DC 20554

Commissioner James H. Quello  
Federal Communications Commission  
1919 M Street, NW, Room 802  
Washington, DC 20554

Commissioner Rachelle B. Chong  
Federal Communications Commission  
1919 M Street, NW, Room 844  
Washington, DC 20554

Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, NW, Room 832  
Washington, DC 20554


Andrew S. Fishel, Managing Director  
Federal Communications Commission  
1919 M Street, NW, Room 852  
Washington, DC 20554

Michelle Farquhar, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 5002  
Washington, DC 20554

Ralph Haller, Deputy Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 5002  
Washington, DC 20554

Gerald Vaughan, Deputy Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 5002  
Washington, DC 20554

Rosalind K. Allen, Associate Bureau Chief  
Commercial Radio Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, NW, Room 5002  
Washington, DC 20554



---

Linda J. Evans